

**RULES AND REGULATIONS OF THE
BOARD OF ZONING APPEALS**

(As Amended April 21, 2022)

Acting pursuant to the authority granted to it by Article 7.3 of the Third Amended Charter of the City of Lakewood the Board of Zoning Appeals acting as such hereby adopts the following **Rules and Regulations**:

ARTICLE I

Offices

Section A – Designation

The Board shall elect a Chairman and Vice Chairman, who shall be members of the Board. It shall elect a Secretary and such other officers, as it may from time to time deem necessary that need not be members of the Board.

Section B – Election and Terms

The officers shall be elected at the regular meetings of the Board held in January of each year and they shall take office immediately and hold such office until the next January meeting of the Board or until their successors are elected and qualified. The Board may remove any officer at any time with or without cause by a majority vote of the entire membership of the Board. The Board may fill any vacancy in any office for the unexpired term.

Section C – Chairman

The Chairman shall preside at all meetings of the Board, appoint all committees and be ex-officio member of such committees. He/She shall perform all of the duties incident to the office and such other and further duties as from time to time shall be required or authorized by any ordinance of the City, these Rules, or the Board.

Section D – Vice Chairman

The Vice Chairman, in the absence or inability of the Chairman to act, shall perform the duties of the Chairman and possess the same power and authority as the Chairman.

Section E – Secretary

The Secretary shall serve as the chief staff executive for the Board. He/She shall attend all meetings of the Board and of all of its committees and keep the minutes thereof; give or cause to be given any notice required by the ordinance of the City or these Rules, and shall perform all other duties incident to the office of a secretary and such other duties as may be assigned to him by the Board.

Section F

Any other officers elected by the Board shall perform such duties and functions as may from time to time be required or authorized by the Board.

ARTICLE II

Meetings

Section A – Regular Meetings

The regular meeting of the Board shall be held monthly on the third Thursday of each month at the City of Lakewood, Auditorium at 6:30 p.m. unless otherwise indicated.

The pre-review meeting of the Board shall be held monthly on the third Thursday of each month at the City of Lakewood, East Conference Room at 6:00 p.m. unless otherwise indicated.

Section B – Special Meetings

Special meetings of the Board shall be held whenever called by the Chairman or Vice Chairman in the absence of the Chairman, or by the Secretary when requested in writing by any two (2) members of the Board. Matters considered at a special meeting shall be limited to the matters described in the notice of the meeting.

ARTICLE III

Docket

Section A – Matters to be Included on the Docket

Any appeal or application to the Board of Zoning Appeals, in accordance with the THIRD AMENDED CHARTER OF THE CITY OF LAKEWOOD, brought to the attention of the Secretary of the Board prior to noon fourteen and one-half

(14½) days preceding the next regular meeting of the Board shall be placed upon the docket for that meeting.

Applications for a variance to the Zoning Code of the City, which have been denied by the Board, may be resubmitted within ten (10) days, if a request is made in writing by the applicant, setting forth the grounds thereof. If the Board determines by vote that valid grounds have been submitted, a rehearing shall be granted. If the request is not made within ten (10) days from the date of ruling, no application on the same appeal may be made to the Board for a period of six (6) months from the date the original application was denied. The filing of an application for a rehearing shall not be deemed to extend the time permitted by law for the filing of an appeal to the Courts.

Section B – Copies of the Docket

The Secretary shall deliver a copy of the docket to each member of the Board, members of Council of the City of Lakewood, the Mayor of the City of Lakewood, and his/her Director of Law, on or before the seventh (7th) day prior to the regular meeting of the Board. The Board or the Chairman may at any time, or from time to time, request the regular or special delivery of a copy of any one (1) or all of the items on the docket to any other person, firm, or corporation.

Section C – Contents of a Docket Item

Each item listed on the docket shall include:

1. The name of the applicant requesting a ruling.

2. The location of the property involved.
3. The character of the request or appeal.
4. The reason for submission to the Board.
5. A short statement of the facts.
6. A plot plan, where required, drawn to scale, of the property involved showing location, size of structure, property line and building line.

ARTICLE IV

Notices

Section A – Notices of Regular Meeting

The delivery of the docket as provided in Article III Section B shall constitute a notice to members of the regular meeting of the Board provided for in Article II, Section A.

Section B – Notices of Special Meetings

Written notice of any special meeting called pursuant to Article II, Section B shall be given by the Secretary to each member of the Board at least four (4) days in advance of the time set for such special meeting.

Section C – Waiver of Notices

Any requirement for notices to members established by these Rules may be waived in writing by any member of the Board and his attendance at any meeting shall be considered a waiver of any notice requirement of such meeting.

Section D – Content of Notice of Special Meeting

If any special meeting is called to consider an appeal from the denial of an application for a ruling, limiting or restricting any work under any permit issued or requesting an interpretation of the Zoning Ordinance, the notices of said special meeting to members shall contain, relating to such item, all facts required in Article III, Section C of these rules.

Section E – Public Notice

If any docket for a regular or special meeting includes a question relating to the use of the premises or the location of the use thereon, notice thereof, shall be given by first class mail with postage prepaid to the owners and the tenant occupant(s) of all property any part of which abuts upon any part of the parcel of land described in the docket item or is situated to any extent across a dedicated highway from such parcel, which notice shall be mailed by the Secretary at least four (4) days before the date of such meeting. In the case of an apartment building or a multiple use building, in lieu of notice by mail to each tenant in a building, notice may be posted in a general public use area of the building. Notice shall also be given to occupants of the subject property. Such notices shall contain a summary of the pertinent docket items which summary shall include items 1, 2 and 3 of items listed in Article III, Section C of these Rules.

ARTICLE V

Conduct of Meeting

Section A – Order of Consideration

Unless otherwise directed by motion of the Board, the Chairman shall call for consideration of the docket items as they appear on the agenda.

Section B – Procedure for Disposition of an Item

Upon the call of the Chairman for the disposition of an item, unless otherwise directed by a motion of the Board, the following procedure shall be followed:

1. A statement by the Secretary supplementing the docket item delivered to the members of the Board indicating the reason, or reasons, why the item has been brought to the attention of the Board for its review.
2. A statement of the applicant seeking the relief from the order of interpretation appealed from which statement may be supplemented by any written or graphic material deemed by the Chairman to be pertinent to the item in issue.
3. Any statement by the applicant in rebuttal of the statement made by interested parties.
4. Any statement in rebuttal by the Secretary.
5. The Chairman shall thereupon call for disposition of the item.

Section C – Participation by Members of the Board

At any time during the presentation, any member of the Board may ask questions of the person appearing before the Board providing he first receives permission to ask such questions from the Chairman.

Section D – Comments and Questions by Others than the Members of the Board

All persons, during the consideration of any item, shall direct their comments only to the members of the Board and any questions they may desire to ask shall be stated to the Board and the Chairman, after determining the question pertinent, shall restate the question and request the answer.

Section E – Power of the Chairman

It shall be the duty of the Chairman to conduct all proceedings before the Board and his ruling in connection therewith shall be final unless appealed by any member of the Board and such appeal being supported by at least a majority of the Board.

ARTICLE VI

Quorum and Voting

Section A – Quorum

The presence of a majority or more of the members of the Board shall be necessary to constitute a quorum for a meeting of the Board except that a majority of the members of the Board present at a meeting duly called

whether or not a quorum is present may adjourn such meeting to a time certain.

Section B – Roll Call Vote

Except for procedural matters all voting shall be by roll call, when the vote is not unanimous.

Section C – Majority of the Quorum

At least three (3) members of the Board shall vote in favor of the approval of any variance, allowance of an appeal or interpretation of the Zoning Ordinance.

ARTICLE VII

Waiver

Any rule herein established may be waived by the affirmative roll call vote of at least four (4) members of the Board.

ARTICLE VIII

Amendments

These Rules and Regulations may be amended or new Rules and Regulations may be adopted by the Board at a meeting held for such purpose by the affirmative vote of at least three (3) members of the Board.

ARTICLE IX

Deferrals

Section A – Applicant Deferral:

A request for deferral must be made in writing and filed with the Board's Secretary no later than 12:00PM on the Tuesday preceding the regularly scheduled meeting.

The written request for a deferral must:

- (a) specify the date to which the deferral is requested; and
- (b) indicate the number of previous deferrals granted.

If a first request for a deferral is made in writing and filed with the Board's Secretary no later than 12:00PM on the Tuesday preceding the regularly scheduled meeting, the petition shall be considered deferred. The Board shall set the date of the application's next hearing at its discretion.

All other requests for a deferral by an applicant shall demonstrate good cause. The request will be considered and discussed by the Board at the pre-review meeting. The Board, in its discretion, may then grant or deny the deferral upon its motion at the regular meeting. The parties shall be prepared to proceed with the scheduled meeting in the event the request for deferral is denied. Failure to do so may result in denial of the application pursuant to Article III, Section A.

Section B – Administrative Deferral:

In the event that an applicant is the only scheduled applicant for the regular meeting, or the Board has three or less members available for the meeting,

the meeting may be cancelled and applications administratively deferred. In that case, the applicant will receive a notification from the Board's Secretary that a deferral has been granted.

Section C – Elective Deferral:

In the event that an applicant is the only scheduled applicant for the regular meeting, or the Board has three or less members available for the meeting, and the meeting is not administratively deferred, the Secretary of the Board shall contact the applicant and offer them a deferral. If accepted by the applicant, the deferral shall be considered granted. Any such deferral shall not count as the applicant's first request for a deferral.

ARTICLE X

Secretary of the Board

Section A – Appointment:

Pursuant to the Third Amended Charter, Section 7.3 (b), the city's chief planning officer or his or her designee shall be the secretary to the board and shall be responsible for the preparation of the docket and the minutes for all board meetings and shall perform all other duties incident to the office of secretary. The secretary shall have no vote.

Section B – Powers:

The secretary shall have the following additional powers and duties with respect to the Board:

- a) to create and circulate a meeting agenda;
- b) to accept and docket complete applications;

- c) to reject incomplete applications;
- d) to contact applicants or their designees to clarify applications or to solicit additional, required information;
- e) to call meetings with applicants or their designees to explain Board rules, processes, application requirements etc, as required;
- f) enforce any requirements or request previously made by the Board;
- g) to refuse to docket or remove from an existing docket any application not complying with this Article;

Section C– Appeal:

In the event that an applicant disagrees with a discretionary decision made by the Secretary, the applicant shall notify the Secretary in writing of the appeal and reasons for it by noon on the Thursday immediately preceding the meeting date. Timely appeals shall be heard at the following meeting. Appeals shall be placed as the initial docket item(s) and decided by majority vote of the Board. If the appeal is granted, the Board shall set a date for a special meeting to hear the application.

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